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15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 NATIONAL LAWYERS' GUILD SAN
19 FRANCISCO CHAPTER, et al.

20 No. C 08-5137 RS

21 Plaintiffs,

22 **JOINT STATUS REPORT
23 AND STIPULATION TO STAY
24 PROCEEDINGS; AND [PROPOSED]
25 ORDER**

26 U.S. DEPARTMENT OF HOMELAND
27 SECURITY, et al.,

28 Defendants.

29 WHEREAS, in an effort to narrow the issues before the Court,

30 1. The parties have entered into a series of stipulations to stay proceedings since April
31 24, 2009, to allow Defendants to conduct secondary searches and process potentially responsive
32 records, and to allow the parties to confer in an effort to resolve Plaintiffs' claims without the
33 Court's intervention. On October 30, 2009, as a result of those negotiations, Plaintiffs stipulated that
34 they did not contest the adequacy of the searches performed by Defendants DHS, DHS-OIG, or
35 CIS, or the propriety of the withholdings made by DHS-OIG; accordingly, pursuant to Rule
36 41(a)(1)(A)(ii), the parties filed a stipulation of dismissal of this action with prejudice with respect

37 NO. C 08-5137 RS

38 JOINT STATUS REPORT AND STIPULATION TO STAY PROCEEDINGS

to those Defendants. Negotiations continued with respect to the remaining Defendants: CBP, EOIR, and ICE. Most recently, on April 4, 2011, the Court approved the parties' stipulations (a) to further stay proceedings through and including May 31, 2011, and (b) to submit a joint report advising the Court on the status of negotiations and/or a stipulation proposing a schedule to govern further proceedings, no later than May 31, 2011; and

2. As a result of those negotiations, Plaintiffs have stipulated that they do not contest either the adequacy of the searches performed, or the propriety of the withholdings made, by CBP, EOIR, and ICE. The parties now agree that all merits issues in this case have been resolved; and

3. The parties are engaged in discussions about whether an award of attorney's fees and costs is appropriate, and to that end, Plaintiffs have extended a proposal to Defendants. While Defendants do not concede that Plaintiffs are entitled to recover any fees or costs in this case, and reserve all rights to oppose any bill of costs or motion for attorney's fees, they are carefully considering Plaintiffs' proposal. Although further negotiation may eliminate the need for judicial resolution of any dispute over fees or costs, the parties anticipate that it will take several months for their negotiations to conclude; and

WHEREAS it would minimize litigation costs and conserve judicial resources to permit the parties to attempt to resolve any dispute over fees or costs without the Court's intervention,

IT IS HEREBY AGREED AND STIPULATED by and between the parties, through undersigned counsel, subject to the approval of the Court, that:

1. Further proceedings in this case are stayed for a period of approximately 3 months, through and including August 31, 2011, and

2. No later than August 31, 2011, the parties shall submit a joint report advising the Court on the status of the above-mentioned negotiations and/or a stipulation proposing a schedule to govern further proceedings.

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1 Dated: May 31, 2011

2 Respectfully submitted,

3 /s/ Lisa A. Davis

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16 Attorneys for Plaintiffs

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18 **SIGNATURE ATTESTATION**

19 In accordance with General Order 45(X), I hereby attest that I have obtained Lisa A.
20 Davis's concurrence in the filing of this document.

21 /s/ Eric B. Beckenhauer
22 ERIC B. BECKENHAUER

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24 **[PROPOSED] ORDER**

25 Pursuant to stipulation, **IT IS SO ORDERED.**

26 Dated: 6/1/11

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RICHARD SEEBORG
United States District Judge